

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

RICCARDO GREEN,

Plaintiff(s),

v.

SEATTLE ART MUSEUM,

Defendant(s).

NO. C07-58MJP

ORDER ON DEFENDANT'S  
MOTION TO COMPEL AND FOR  
SANCTIONS

The above-entitled Court, having received and reviewed:

1. Defendant's Motion to Compel and for Sanctions (Dkt. No. 68)
2. Plaintiff's Brief in Opposition, Cross Motion for Sanctions and Protection Order (Dkt. No. 74)
3. Defendant's Reply in Support of Motion to Compel and for Sanctions (Dkt. No. 77)
4. Plaintiff's Surreply to Defendant's Reply in Support of Motion to Compel and for Sanctions (Dkt. No. 79)

and all exhibits and declarations attached thereto, makes the following ruling:

IT IS ORDERED that Defendant's motion to compel is GRANTED IN PART and DENIED IN PART. Plaintiff has five judicial days from the entry of this order to provide Defendant with the discovery to the extent authorized by the Court in the opinion which follows. Failure to provide discovery in the time allotted will result in sanctions, up to and including dismissal of this action.

IT IS FURTHER ORDERED that Defendant's motion for sanctions is GRANTED.

IT IS FURTHER ORDERED that Plaintiff shall immediately cease directly contacting the employees of Defendant Seattle Art Museum for any purpose related to this or any other lawsuit he is prosecuting against the organization. Plaintiff shall have no contact with Defendant's employees for litigation purposes except through its counsel.

1 IT IS FURTHER ORDERED that Plaintiff's cross-motion for sanctions is DENIED.

2 IT IS FURTHER ORDERED that Plaintiff's motion for a protective order is DENIED without  
3 prejudice to Plaintiff's properly noting and pleading a request for protective order.

4 **Background**

5 Plaintiff worked as a Visitor Security Officer ("VSO") at Defendant Seattle Art Museum  
6 ("SAM" or "the Museum") for approximately 6 weeks in 2006. Following his termination from that  
7 position, Plaintiff instituted this lawsuit, alleging racial discrimination, disparate treatment, harassment,  
8 breach of contract, hostile work environment and retaliation. Dkt. No. 1.

9 Defendant served written discovery requests on Plaintiff on July 27, 2007, to which Plaintiff  
10 responded on August 27, 2007. Declaration of Gaviria, Exh. B. Plaintiff objected to every  
11 interrogatory and request for production propounded by the Museum, claiming (among other things)  
12 that every discovery request made by Defendant (including requests for his address, his employer, his  
13 health care providers and the elements of his damages claims) was irrelevant and made for the  
14 purposes of harassment and unnecessary delay. Decl. of Gaviria, Exh. C. Plaintiff's responses, almost  
15 without exception, consist of boilerplate objections without explanation, example or citation to  
16 authority.

17 By an order of this Court dated October 10, 2007, Plaintiff was denied his request to serve  
18 additional interrogatories on Defendant. Dkt. No. 50. Plaintiff has since contacted defense counsel  
19 and Museum staff with additional questions related to discovery. Decl's of Gaviria and Ortega, and  
20 accompanying exhibits.

21 **Discussion**

22 This order will address (1) Defendant's discovery requests and Plaintiff's responses; (2)  
23 miscellaneous matters relating to Plaintiff's contact with Museum staff, his motion to strike various of  
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1 Defendant's declarations, his surreply to Defendant's reply brief and his "motion" for a protective  
2 order; and (3) the cross-motions for sanctions.

3  
4 Discovery requests and response (Defendant's motion to compel)

5 This portion of the order will address Defendant's interrogatories and requests for production  
6 individually. Since Plaintiff has objected to every discovery request, the analysis below will indicate  
7 the nature of the request and the Court's ruling on Defendant's motion that Plaintiff be compelled to  
8 respond.

9 *Request for Production (RFP) No. 1: All documents in Plaintiff's possession relating to his*  
10 *claims in this lawsuit.* Plaintiff is not required to produce any documents which have already been  
11 made part of the court record, however he must produce any documents relating to his claims which  
12 are in his possession but have not yet been made part of the court record. If he does not have any  
13 other documents, then he has nothing to produce; if he has any such documents and fails to produce  
14 them, he will be barred from utilizing such documents at any other point in this litigation. Ruling:  
15 **Granted.**

16 *Interrogatory No. 1: Any other names or pseudonyms which have been used by Plaintiff and*  
17 *their times and places of use.* Given Plaintiff's string of 15 lawsuits in this court (including two  
18 against the Museum), Defendant is entitled to develop a possible defense of vexatious litigation.  
19 Defendant is permitted to request this information for the purposes of investigating whether Plaintiff  
20 has filed lawsuits under any other names, and also to develop information on Plaintiff's character for  
21 truthfulness. Ruling: Granted.

22 *Interrogatory No. 2: Plaintiff's addresses for the last six years, and dates of residence.*  
23 Defendant cites a Florida District Court case for the proposition that discovery of this sort is  
24 "considered routine information in almost all civil discovery matters." Gober v. City of Leesburg, 197

1 F.R.D. 519, 521, fn. 2 (M.D. Fla. 2000). This is not binding precedent on this Court. Beyond this  
2 citation, Defendant has failed to offer argument on the possible relevance of Plaintiff's prior addresses.  
3 Plaintiff's current address, however, is routinely discoverable information and Plaintiff will be ordered  
4 to divulge it. It was Plaintiff's choice to initiate this litigation, and with that choice comes the  
5 surrender of a certain degree of anonymity and privacy enjoyed by non-litigating citizens. Ruling:  
6 **Denied in part, granted in part** (Plaintiff's current address).

7 *Interrogatory No. 3: The extent of Plaintiff's education, including school names and*  
8 *locations, years of attendance and degrees or certificates obtained.* Plaintiff's objection that this  
9 information was already provided in the resume he submitted as part of his job application process is  
10 not well-taken. Defendant is entitled to test the consistency and truthfulness of Plaintiff's prior  
11 representations. Ruling: Granted.

12 *RFP No. 2: All high school, college or postgraduate transcripts.* To the extent that this  
13 request concerns a record of the classes Plaintiff attended and the grades he received, the Court fails to  
14 see the possible relevancy. However, to the extent that this addresses a request for documentary proof  
15 of the level of education or any professional licensing or certification that Plaintiff has attained, it is  
16 entirely relevant to test the truthfulness of Plaintiff's representations regarding his education and any  
17 professional degrees or licenses he claims to have obtained. He will be ordered to produce any proof  
18 of educational degrees or professional certification or licensing in his possession. Ruling: Granted  
19 (re: proof of degrees or certification).

20 *Interrogatory No. 4: Branch of the armed forces and dates of service for any military service.*  
21 Again, Defendant is entitled to explore this routine area of civil discovery to develop the issue of  
22 Plaintiff's truthfulness as it relates to representations which he made on his job application. Ruling:  
23 **Granted.**

1 *Interrogatory No. 5: Criminal investigations, arrests or convictions (nature of offense,*  
2 *prosecuting authority, disposition of charge).* Plaintiff claims in his response that this information is  
3 “determined prior to or at time of hire,” which the Court interprets to mean that he claims to have  
4 provided this information at the time of his application for employment. Again, Defendant is entitled  
5 to test the consistency and truthfulness of Plaintiff’s prior representations, and to know if Plaintiff has  
6 accumulated any additional criminal history (relevant on the issue of truthfulness) in the period  
7 following his termination. Ruling: Granted.

8 *Interrogatory No. 6/RFP No. 3: Prior claims for disability or unemployment benefits*  
9 *(including worker’s compensation); dates and places of claims, claim numbers and whether any*  
10 *claim is still open.* Plaintiff’s response that he has not filed for “unemployment or disability claims at  
11 any time” is an adequate partial response. Plaintiff is directed to respond to the interrogatory  
12 concerning worker’s compensation claims by either indicating that he has never applied for such  
13 benefits or providing the requested evidence concerning any worker’s compensation claims he has  
14 filed. Ruling: Granted (re: worker’s compensation claims).

15 *Interrogatory No. 7/RFP No. 4: All other legal actions, whether as Plaintiff or Defendant*  
16 *(dates, courts, parties involved and final result including amounts of settlements, appeals filed);*  
17 *copies of complaints, judgments and awards.* As discussed above, Defendant is entitled to develop  
18 the defense of vexatious litigation, and is entitled to the information concerning all other lawsuits  
19 (state and federal) filed by Plaintiff, including the names of the cases, where they were filed, the parties  
20 involved, and the disposition of each case (the issue of settlement amounts and agreements will be  
21 discussed below). Ruling: Granted.

22 *RFP No. 5: Request that copies of all settlement agreements and releases related to any of*  
23 *Plaintiff’s prior or pending legal actions be produced for inspection and copying.* Plaintiff objects to  
24 this request on the grounds that “[a]ll settlement agreements and amounts between Plaintiffs in other  
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lawsuits are strictly confidential subject to non-disclosure agreed to by both parties.” Plaintiff provides no evidence of any non-disclosure agreements. In any event, objections to disclosing settlement agreements on the grounds of confidentiality may not be used to “obscure issues or otherwise thwart an opponent’s discovery.” Smith v. TIB Bank of the Keys, 687 So.2d 895,896 (Fla.App. 1997). The contents of Plaintiff’s prior settlement agreements are relevant on the issue of Plaintiff’s motivation for filing this lawsuit and on the issue of a possible vexatious litigation defense and Plaintiff will be ordered to produce them for purposes of inspection and copying. If he wishes to limit Defendant’s use of the documents pursuant to a proper protective order, he is free to so move.

**Ruling: Granted.**

*Interrogatory No. 8: Involvement in any “anti-harassment proceedings,” including date and court, parties involved and final results.*

This request is both vague (there is no statutory citation defining what constitutes an “anti-harassment proceeding”) and duplicative. To the extent that this interrogatory concerns conduct covered under RCW 9A.46.010 *et seq.*, the subject proceedings are obviously legal actions covered by Interrogatory No. 7 and Plaintiff is already obliged to disclose the information under the Court’s ruling above. **Ruling: Denied.**

*Interrogatory No. 9/RFP No. 6: Any claims filed with the Equal Employment Opportunity Commission (“EEOC”) or the Washington State Human Rights Commission, including dates, claim numbers and whether the claim is still open.* Plaintiff’s objection refers Defendant to the EEOC complaint which he filed prior to instituting this lawsuit, a copy of which has been made a part of the court record. The interrogatory requests information regarding any EEOC or Human Rights Commission claims, not only in reference to this litigation but at any time. Given the nature of Plaintiff’s claims in this matter (racially-discriminatory termination), Defendant is entitled to explore whether Plaintiff has a pattern of making racially-related claims of mistreatment in other settings. If

1 Plaintiff has filed no other EEOC or Human Rights Commission claims, he should say so. If he has  
2 filed such claims, he must provide the requested information and produce any documents related to  
3 those claims for inspection and copying. Ruling: Granted.

4 *Interrogatory No. 10/RFP No. 7: Meetings or communications with anyone regarding the*  
5 *facts alleged in Plaintiff's complaint; names of such persons (or persons with knowledge of the*  
6 *communication) and the substance, purpose or outcome; copies of all documents evidencing such*  
7 *communications.* Plaintiff's response to this is his standard "Plaintiff suggests defendant refer to the  
8 exhibits filed in court and in the conclusion of this case." If Plaintiff means to imply that all  
9 information relevant to this request is already on file in the court record, he is cautioned that he will be  
10 held to this representation. If there are any individuals with whom Plaintiff has communicated  
11 regarding the facts of this case and their names, the subject of the communication and any documents  
12 reflecting such communication are not on file in the court record, Plaintiff will be barred from  
13 introducing such documents as evidence or using such persons as witnesses unless he provides  
14 Defendant with this information. If there are no further names or communications to divulge, Plaintiff  
15 should state so clearly. Ruling: Granted.

16 *Interrogatory No. 11: All persons Plaintiff believes have knowledge of facts which support*  
17 *Plaintiff's claims and nature of the facts of which they are aware.* Plaintiff's response to this  
18 interrogatory is the same as his response to Interrogatory No. 10. The Court's response is identical as  
19 well. Ruling: Granted.

20 *Interrogatory No. 12: Names of employees and former employees of SAM with whom Plaintiff*  
21 *has communicated regarding this lawsuit, and the content of those communications.* Plaintiff  
22 responds by advising Defendant "to review all exhibits filed with the courts in the conclusion of this  
23 case." In addition to again cautioning Plaintiff that any undisclosed communications with any former  
24 SAM employees will not be admissible if he has not divulged them pursuant to this request, the Court  
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1 has a further caution to Plaintiff regarding contact with present employees of Defendant. Defendant  
2 has alleged, and Plaintiff has not denied, that Plaintiff has contacted SAM employees directly (through  
3 e-mail) with questions which concern both this litigation and another pending lawsuit (C07-1735MJP)  
4 Plaintiff has filed against the Museum. Plaintiff is to have no direct contact concerning any pending  
5 litigation with any person currently working for Defendant except through their attorneys. Violation  
6 of this order will be treated as contempt of court and will subject Plaintiff to disciplinary sanctions.

7 **Ruling: Granted.**

8 *RFP No. 9: All business and personal diaries, journals, notes, calendars, schedules,*  
9 *daytimers, daily logs, and similar documents maintained during Plaintiff's employment with SAM up*  
10 *to the present.* Plaintiff again advises Defendant to "review all exhibits filed with the courts." If  
11 Plaintiff is saying that he has no other diaries, journals, notes, calendars, schedules, etc. which were  
12 maintained during his employment with SAM up until the present, he should state so clearly. If there  
13 are any such documents in existence, Plaintiff is ordered to produce them for inspection and copying.

14 **Ruling: Granted.**

15 *Interrogatory No. 13/RFP No. 10: Names, dates of employment, location, job titles, names of*  
16 *immediate supervisors for all employers for whom Plaintiff has worked (including reasons for*  
17 *leaving employment), plus copies of all employment records in Plaintiff's possession.* Plaintiff's  
18 response to this request refers Defendant to his "employment resume with SAM," which the Court  
19 assumes is a reference to his application for employment where the listing of prior jobs is a standard  
20 feature. As with several of the prior discovery items, Defendant is entitled to test both Plaintiff's  
21 consistency and his truthfulness, and on that ground Plaintiff is ordered to answer the interrogatory. It  
22 may well be that Plaintiff has few or no documents relevant to this request (such as personnel files,  
23 performance evaluations, etc.) in his possession. If he does not, he should state so clearly and desist in  
24 hiding behind an legally-unsupported screen of "confidentiality."



1 However, the Court finds the lack of any time frame on this interrogatory to be overbroad,  
 2 and will direct Plaintiff to confine his response to the five years prior to his employment with  
 3 Defendant. Plaintiff's second objection to this request, that it calls for "hearsay," is meritless and is  
 4 overruled. Ruling: Partially granted, partially denied.

5 *Interrogatory No. 14/RFP No. 11: The name of Plaintiff's current employer (if any), address,*  
 6 *and documents containing his current job description.* Plaintiff objects that his current employment is  
 7 "confidential and private" and irrelevant to this lawsuit. He is incorrect. Plaintiff's current job,  
 8 including the nature of his duties and his salary, is relevant on the issue of the extent of Plaintiff's  
 9 damages following his termination from Defendant's employment. As has been pointed out  
 10 previously, Plaintiff chose to start this lawsuit and in so doing has subjected himself to a level of  
 11 scrutiny and disclosure to which non-litigating citizens are largely immune. As has been observed  
 12 elsewhere:

13 The potential for some discomfort or chagrin is endemic to litigation. . . To empower  
 14 plaintiffs unilaterally to impose limits on the proper bounds of inquiry into relevant  
 15 personal matters during pre-trial discovery would be intolerable and unfair to  
 16 defendants. . . Insofar as these concerns [of discomfort] have any validity in a particular  
 17 case, they may be addressed by an appropriate confidentiality agreement between the  
 18 parties.

19 Handwerker v. AT&T, 211 F.R.D. 203, 209 (S.D.N.Y. 2002). Ruling: Granted.

20 *Interrogatory No. 15/RFP Nos. 12-13: Identify all expert witnesses, stating the subject matter*  
 21 *to which each will testify, the substance of the facts and opinions to which they will testify and the*  
 22 *grounds for their opinions (including copies of all documents provided to or considered by the*  
 23 *experts, and copies of any reports prepared by them).* Plaintiff claims to have no experts at this time,  
 24 but says that he intends to seek expert testimony in his behalf. Obviously, Plaintiff cannot provide  
 25 what he does not have, but he is cautioned on two grounds: (1) the duty to produce discovery  
 26 pursuant to a legitimate request is an ongoing one, and Plaintiff will be expected to produce the  
 requested expert witness discovery at any time he obtains it prior to the conclusion of this case; and

(2) there are time limits imposed by the case schedule for the retention of experts and Plaintiff will be expected to observe them. Ruling: Granted (should Plaintiff retain expert witnesses at any point).

*Interrogatory No. 16/RFP No. 14: Describe each element of damages, including the dollar amount, the manner in which the dollar amount was calculated and the basis for that calculation (including all documents that “support, undermine, or otherwise relate” to the damages interrogatory).* In addition to his usual boilerplate refusals claiming that the request is irrelevant, vague, overbroad, burdensome, etc., Plaintiff further objects to producing this information on the grounds that “the judge will determine appropriate damages” and that he will not disclose his “damages list without proper protection order and/or in mediation.” With one exception noted below, none of Plaintiff’s objections have an iota of merit. Nothing could be more relevant than the damages which Plaintiff claims to have suffered from Defendant’s allegedly improper conduct and the means by which those damages have been calculated. Defendant’s request is neither vague or burdensome and Plaintiff enjoys no privileges or legal immunities which protect him from providing this most basic element of discoverable information.

The Court does find one aspect of Defendant’s request problematic. The Court is unaware of, and Defendant cites no authority for, any obligation on a plaintiff’s part to provide discovery which “undermines” his or her damages claim. Defendant is permitted to develop such information through depositions and expert testimony, but absent some legal support for that aspect of the interrogatory, Plaintiff will not be required to produce “undermining” information. Ruling: Partially granted, partially denied (as to “undermining” documents).

*RFP No. 15: State and federal income tax returns, income tax records and copies of W-2 forms, from 2000 to the present.* Plaintiff’s objection that these documents are “irrelevant” is not well-taken; they are relevant on the issue of lost wages and earning capacity concerning any damage claim Plaintiff makes for lost earnings. Plaintiff further objects, without citation to legal authority, that

1 this information is “confidential.” It is not confidential in this circumstance. Plaintiff has placed the  
2 subjects of his earning capacity and his truthfulness at issue in filing this litigation, and he must  
3 produce all relevant, discoverable evidence on those issues if so requested. Ruling: Granted.

4 *Interrogatory No. 17/RFP No. 16: Identify all health care providers from whom treatment has*  
5 *been received since 1997, stating the nature of the treatment and dates of treatment (including all*  
6 *medical records in Plaintiff’s possession for those health care providers).* Plaintiff again interposes  
7 the dual objections of irrelevancy and confidentiality, and they are equally invalid here. Plaintiff has  
8 claimed damages relating to emotional distress, and this discovery is fully relevant on the issue of what  
9 medical or physical evidence exists to support that claim. In placing his physical condition at issue,  
10 Plaintiff has waived any right to confidentiality regarding the names of his health care providers and  
11 the records of their treatment. Ruling: Granted.

12 *Interrogatory No. 18/RFP No. 17: Identify all mental health care providers from whom*  
13 *treatment or evaluation has been received since 1997, stating the nature of the treatment and the*  
14 *dates of treatment (including all mental health care provider records in Plaintiff’s possession).* The  
15 parties are referred to the Court’s analysis in the preceding paragraph. Ruling: Granted.

16 *Interrogatory No. 19: All facts which support Plaintiff’s claim that Defendant’s acts and*  
17 *omission caused him “emotional distress.”* Again, Plaintiff’s claims of irrelevance and confidentiality  
18 are baseless (as are the remainder of his boilerplate objections). Plaintiff will not be permitted to hale  
19 defendants into court with allegations of injurious conduct and then refuse to substantiate his claims.  
20 Ruling: Granted.

21 *Interrogatory No. 20/RFP No. 18: Concerning Plaintiff’s claim for breach of contract,*  
22 *identify the contract that was breached, the specific provision which was breached and all facts*  
23 *supporting that claim (including any documents or “other tangible evidence” which supports that*  
24 *claim).* In addition to his standard list of boilerplate objections, Plaintiff “advises Defendant to review  
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1 all exhibits filed with the courts in the conclusion of this case. The courts granted in favor of plaintiff's  
2 disparate treatment, retaliation and breach of contract claims, period." The Court finds this  
3 unacceptable and insupportable. Defendant has every right to require Plaintiff to identify both the  
4 contract which he alleges was breached, the provision of that contract which was breached and the  
5 facts which support the allegation. It is not Defendant's burden to comb through the hundreds of  
6 pages of documentation filed by Plaintiff in this matter and speculate as to which of them might be  
7 used to corroborate Plaintiff's breach of contract claim.

8 Furthermore, Plaintiff appears to be under the misapprehension that, because the Court earlier  
9 declined to dismiss his breach of contract claim pursuant to Defendant's FRCP 12(b)(6) motion (see  
10 Order of June 29, 2007; Dkt. No. 24), he is under no further obligation to support or explain that  
11 cause of action. He is incorrect. The Court's earlier refusal to dismiss this claim simply meant that the  
12 cause of action was sufficiently plead in the complaint to permit it to go forward. All of Plaintiff's  
13 claims which survived the motion to dismiss are fully subject to further challenge, both by means of  
14 motions for summary judgment and at trial, and Plaintiff is obligated to provide every piece of  
15 information or documentation in his possession which he believes is relevant to his right to prevail on  
16 his allegations. Ruling: Granted.

17  
18 Plaintiff will be directed to provide responses to Defendant's discovery requests as ordered  
19 above. Plaintiff is again advised that the obligation to provide this information is ongoing; that is, if  
20 any information comes into his possession at a later date which would responsive to any of the  
21 authorized discovery requests, Plaintiff must provide it on his own initiative. Failure to do so will  
22 result in any such evidence being excluded and may subject Plaintiff to further sanctions.

1 Plaintiff's contact with Museum employees

2 This issue has been addressed above, but the Court considers it sufficiently serious to reiterate  
3 it separately. As a pro se litigant who is suing the Defendant in not one, but two, lawsuits in this  
4 court, Plaintiff is forbidden to have any form of contact (including e-mails, letters or telephone calls)  
5 with any current employee of SAM concerning any issues touching on his litigation except through  
6 Defendant's counsel. Failure to abide by this restriction will result in disciplinary sanctions, up to and  
7 including dismissal of this or any other lawsuit in which Plaintiff violates this order.

8 Plaintiff's motion to strike and surreply

9 In his response to Defendant's motion to compel, Plaintiff moves to strike the declarations of  
10 HR Supervisor Ortega and defense counsel Gaviria. Those motions are denied. The Court finds  
11 nothing objectionable or inadmissible about the substance of those documents. Plaintiff also filed,  
12 without advising the Court or obtaining leave, a surreply to Defendant's reply memorandum. Part of  
13 the surreply requests that Defendant's reply be stricken for being overlength and not timely filed.  
14 Since neither of those allegations is correct, that portion of the surreply will be denied. The remainder  
15 of Plaintiff's surreply contains responsive arguments to Defendant's reply brief. Local Rule 7(g)(2)  
16 states clearly that "[t]he surreply. . . shall be strictly limited to addressing the request to strike."  
17 Plaintiff's substantive arguments in his surreply brief, therefore, will be stricken.

18 Plaintiff's motion for a protective order

19 The final paragraph of Plaintiff's response brief is entitled "Cross Motion for Protection  
20 Order." Pltf Response, p. 11-12. It is inadequate as a motion in several regards, including Plaintiff's  
21 failure to certify that he "has in good faith conferred or attempted to confer with other affected parties  
22 in an effort to resolve the dispute without court action," as required by FRCP 26(c). The Court will  
23 entertain a motion for protective order from Plaintiff if and when he submits such a motion in  
24 conformance with the rules.

1 Cross-motions for sanctions

2 Under FRCP 37(d), the Court is empowered to assess sanctions against any party which fails  
3 to provide answers to legitimately propounded interrogatories or requests for production. There is no  
4 question that sanctions are appropriate in the face of Plaintiff's pervasive refusal to provide adequate  
5 responses to Defendant's interrogatories. As a veteran of 15 lawsuits in this court alone, Plaintiff is  
6 (or should be) well-versed in his obligations to prosecute his cases in accordance with the rules of civil  
7 procedure and the ethical requirements of all practitioners before this court. It is hoped that an  
8 assessment of attorneys' fees will encourage Plaintiff to conduct his litigation in a legally required and  
9 properly cooperative manner. Defendant is ordered to submit a declaration containing an itemized  
10 account of their fees and costs in filing this motion within ten judicial days of the filing of this order.<sup>1</sup>

11 Plaintiff's cross-motion for sanctions is denied.

12 **Conclusion**

13 Plaintiff's widespread flaunting of the rules of discovery and civil procedure will not be  
14 tolerated. Plaintiff is ordered to provide responses to the Defendant's interrogatories and requests for  
15 production as granted in the above opinion. Those responses must be delivered to Defendant within  
16 five judicial days of the filing of this order. Failure to provide the required discovery within that time  
17 period will result in further sanctions, up to and including dismissal of this lawsuit.

18 Additionally, Plaintiff is enjoined from contacting any employee of the Defendant concerning  
19 any matter involved in this lawsuit or Plaintiff's other lawsuit (C07-1735MJP) against the Museum.

20 Defendant is awarded sanctions in the form of attorneys' fees and costs for the filing of this  
21 motion, and is ordered to submit a declaration itemizing such fees and costs within ten judicial days of  
22 the entry of this order.

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24 <sup>1</sup> The parties are advised that, as the Court did not grant Defendant complete relief on their motion to compel,  
25 the sanctions award will be in the form of a discounted amount of the total of fees and costs for this motion.

1 The clerk is directed to provide copies of this order to all counsel of record.

2 Dated: February \_\_8\_\_, 2008

3 

4 Marsha J. Pechman  
5 U.S. District Judge